

ELAYNA J. YOUCHAH, Bar No. 5837  
youchahe@jacksonlewis.com  
LISA A. MCCLANE, Bar No. 10139  
lisa.mcclane@jacksonlewis.com  
**JACKSON LEWIS P.C.**  
3800 Howard Hughes Parkway  
Suite 600  
Las Vegas, Nevada 89169  
Tel: (702) 921-2460  
Fax: (702) 921-2461

Attorneys for Defendant

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

CHARLES MARSHALL, an individual,  
Plaintiff,

v.

SILVER STATE DISPOSAL SERVICE,  
INC. DBA REPUBLIC SERVICES OF  
SOUTHERN NEVADA, a Nevada  
Corporation

Defendant.

Case No. 2:15-cv-00953-APG-PAL

**STIPULATED PROTECTIVE ORDER  
GOVERNING CONFIDENTIAL  
INFORMATION**

Pursuant to Federal Rule of Civil Procedure 26(c), Plaintiff Charles Marshall ("Plaintiff") and Defendant Silver State Disposal Service, Inc. dba Republic Services of Southern Nevada ("Defendant"), (collectively, the "Parties"), by and through their respective counsel of record, hereby stipulate and agree that the handling of confidential material in these proceedings shall be governed by the provisions set for the below.

**I. APPLICATION.**

This Protective Order shall govern the designation and handling of "Confidential Information" (defined below) produced in discovery in this litigation, whether by voluntary production or disclosure or in response to any formal discovery procedure, including designation and handling of nonpublic information of a confidential nature. This Protective Order does not

1 affect any party's obligations under the Civil Rules to produce documents as required by the rules  
2 of discovery or an order of the Court. The purpose of this Protective Order is to facilitate the  
3 handling of nonpublic information of a confidential, private, or proprietary nature.

4 If a designating party files material concerning "Confidential Information" in court and  
5 does not attempt to file it under seal, or if material is otherwise already party of the public record  
6 as of the entry of this Protective Order, the material in question will not be subject to this  
7 Protective Order. The mere filing of material containing "Confidential" by the non-designating  
8 party does not remove the material from the protection of this Protective Order. If a non-  
9 designating party files material marked "Confidential Information" by another party without first  
10 seeking permission of the court to file the same under seal, the non-filing party may seek  
11 appropriate relief to ensure protection under this Protective Order.  
12

13 **II. DEFINITIONS.**

14 A. "Confidential Information" includes, without limitation, any document,  
15 information, or material that the producing party or protected person reasonably believes not to be  
16 in the public domain and reasonably believes contains information to which an individual or  
17 company has an established and legitimate right to privacy or confidentiality. Confidential  
18 Information includes, but is not limited to any document or testimony identified by the party that  
19 contains highly sensitive, proprietary, or trade secret information, including, but not limited to  
20 medical records and healthcare information pertaining to any current or former employee of  
21 Defendant; personnel documents that contain personal identification information such as social  
22 security numbers, financial information and/or rates of pay, personal information of current or  
23 former employees of Defendant (such as addresses, telephone numbers, birth dates, marital status,  
24 dependent status and/or discipline or counseling received from Defendant); financial information,  
25 including, but not limited to, payroll records, tax returns, financial statements, banking records,  
26  
27  
28



1 and electronic data containing financial information and/or compensation or pay plans or scales;  
2 witness statements and/or investigation reports; procedures, location of cameras, methods of  
3 recording, video footage and reports; confidential proprietary and/or competitive business and  
4 gaming information; trade secrets; information about prior, existing, and potential customers;  
5 performance projections; business strategies and confidential proprietary information about  
6 affiliates, parents, subsidiaries and third-parties with whom the parties to this action have or have  
7 had business relationships.  
8

9 B. “**Disclosed**” is used in its broadest sense and includes, *inter alia*, directly or  
10 indirectly shown, divulged, revealed, produced, described, transmitted or otherwise  
11 communicated, in whole or in part.

12 C. “**Discovery Material(s)**” means any documents, answers to interrogatories,  
13 responses to requests for admission, deposition testimony, deposition transcripts and exhibits,  
14 other responses to requests for information and/or written information, whether produced  
15 voluntarily or involuntarily, in response to discovery requests in this litigation by any party.  
16

17 D. “**Document**” is defined as the term is used in Federal Rule of Civil Procedure 34.

18 E. “**Under Seal**” is defined as sealing confidential documents consistent with the  
19 procedure set forth in LR 10-5 of the Local Rules for United States District Court, District of  
20 Nevada (the “Court”). In the event that the Court publishes a new procedure for the filing of  
21 documents under seal, the Parties will follow said published procedure.  
22

### 23 **III. Types of Materials that May be Designated as Confidential**

24 Any Discovery Material or other documents, information, or materials may be designated  
25 by a producing party as Confidential under this Order. The assertion of this designation of  
26 “Confidential” shall constitute a representation to the Court that counsel for the producing party  
27 or protected person believes in good faith that the material so designated constitutes Confidential  
28

1 Information as defined in this Order. Except with the prior written consent of the producing party  
2 or by Court order or as otherwise compelled by force of law, no Discovery Materials or other  
3 documents, information, or materials stamped "Confidential" may be disclosed to any person  
4 except as permitted in Section IV below.

5 **IV. Designation of Discovery Materials as Confidential**

6 **A. Marking Protected Documents:** Protected documents shall be designated as  
7 containing "Confidential Information by affixing to them the legend "CONFIDENTIAL" in all  
8 caps, 12 point font, in a location that makes the designation readily apparent, preferably in the  
9 lower right hand corner. Each Party shall maintain a log in the form attached as Exhibit A for the  
10 documents they have produced that have been designated "Confidential," and produce an updated  
11 log, containing all designations, when producing documents or information that are designated  
12 "Confidential." The fact that a document is stamped "Confidential" by one party shall not be  
13 construed as an admission by any other party that such document is confidential, nor shall it limit  
14 or preclude the right of any party to object to the "Confidential" designation and to file any  
15 appropriate motion(s) to determine the propriety of such designation. If the producing party  
16 inadvertently fails to stamp or otherwise appropriately designate or list certain documents,  
17 material, or information as "Confidential" upon their production or disclosure, such inadvertent  
18 failure to designate shall not constitute nor be deemed a waiver of a subsequent claim of protected  
19 treatment under this Order.  
20  
21  
22

23 **B. Designating Testimony.** Any party may designate testimony as "Confidential  
24 Information" by making a statement to that effect on the record at the deposition or other  
25 proceeding or within ten (10) business days after receipt of the transcript of deposition or other  
26 proceeding by counsel. When Confidential Information is designated on the record at a  
27 deposition or other proceeding, the party claiming the testimony is Confidential Information shall  
28



1 make arrangements with the court reporter taking and transcribing such proceeding to label each  
2 page containing the testimony with the designation "CONFIDENTIAL" and all counsel and  
3 parties shall treat pages of testimony so designated as a protected document and the testimony  
4 itself as Confidential Information.

5 C. **Subsequent Designation.** If a party discovers that material or documents  
6 containing Confidential Information have been provided to the opposing party without being  
7 properly designated under this Protective Order, that party shall promptly notify the receiving  
8 party in writing of the same. The notification shall include an identification of the documents or  
9 information (by bates stamp number or some other specific form of identification), and the  
10 receiving party shall affix a stamp identifying each document or item of information so identified  
11 as "CONFIDENTIAL" within ten (10) days unless the parties agree that some other procedure for  
12 remedying the inadvertence is more appropriate under the circumstances.

13  
14  
15 V. **Permissible Use of "Confidential" Information, Documents, or Materials**

16 A. **Limited Use.** Persons obtaining access to Discovery Materials or other  
17 documents, information, or materials stamped "Confidential" or "Attorney's Eyes Only" pursuant  
18 to this Order shall use the information only for the purpose of this matter, through and including  
19 appeal(s) and shall not use or disclose in any format or medium such information for any other  
20 purpose, including business, governmental, commercial, administrative, or judicial proceedings,  
21 unless required by court order or being compelled by force of law. If any person receiving  
22 information covered by this Agreement is: (a) subpoenaed in another action or proceeding; (b)  
23 served with a request or demand in another action to which he, she, or it is a party; or (c) served  
24 with any other legal process by one not a party to this action, seeking information designated as  
25 "Confidential" pursuant to this Order, the subpoenaed party shall promptly give written notice, by  
26 hand or facsimile transmission, within forty-eight (48) hours of receipt of such subpoena, request,  
27  
28

1 demand, or legal process to the party that produced or designated the material as "Confidential."  
2 The subpoenaed party or anyone else subject to this Order shall be under no obligation to take any  
3 other action or measures to preserve the confidentiality of any such information in connection  
4 with such subpoena, request, demand, or legal process. Nothing herein shall be construed as  
5 requiring the subpoenaed party or anyone else covered by this Order to challenge or appeal any  
6 order requiring production of Confidential Information, to subject itself to any penalties for  
7 non-compliance with any legal process or order, or to seek any relief from the court.  
8

9 **B. Disclosure of Protected Material.** Notwithstanding Section IV above, access to  
10 documents stamped "Confidential" shall be limited to the following individuals:

11 1. Counsel: Counsel for the respective parties to this Protective Order,  
12 including in-house counsel and counsel's Support Staff (*i.e.*, paralegals, administrative assistants,  
13 and those involved in administration functions) and Outside Service Organizations (*i.e.*,  
14 organizations providing copy services, translation services, document preparation, trial graphics,  
15 and tutorials) but only to the extent that disclosure to such person(s) is necessary in order for them  
16 to assist attorneys in connection with this matter;  
17

18 2. Court Reporters: Court reporters taking testimony and their support  
19 personnel;  
20

21 3. The Parties: Except as provided below in Section V.C., the parties to this  
22 Protective Order, including the officers, directors, agents and employees of a corporate Party to  
23 the extent counsel for such party deems it necessary for the prosecution or defense of this  
24 proceeding;  
25

26 4. The Court: The Court and authorized court personnel. To the extent such  
27 "Confidential Information" may be disclosed to court personnel or filed with the Court, it may,  
28 upon a showing sufficient to satisfy the requirements of the Court, be done Under Seal;



1           5.       Witnesses: deposition or other witnesses as necessary in this litigation,  
2 provided that such persons have been made aware of the provisions of this Protective Order and  
3 have manifested their assent to be bound thereby by signing a copy of the agreement attached  
4 hereto as Exhibit B and provided further that disclosure is limited to Confidential Information  
5 about which the witness is or is likely to be examined at a deposition or other proceeding;

6           6.       Consultants and Experts: Independent consultants or experts retained by  
7 counsel or a party for assistance with respect to this litigation, together with each such person's  
8 clerical and Support Staff, provided that such have been made aware of the provisions of this  
9 Protective Order and have manifested their assent to be bound thereby by signing a copy of the  
10 agreement attached hereto as Exhibit B.

11           7.       The persons who are identified as authors or addressees on the face of a  
12 document containing Confidential Information, or have been shown by either testimony or  
13 documentary evidence to have been recipients or readers of the Confidential Information prior to  
14 the commencement of the underlying lawsuit;

15           8.       The videographer who videotapes Confidential Information at a deposition  
16 in this litigation;

17           9.       Any arbitrator, mediator or discovery referee in this litigation, and  
18 employees and similar personnel of said arbitrator, mediator or discovery referee;

19           10.      Any other individuals agreed to in writing by the designating party; and

20           11.      Others as may be ordered by the court.

21           C.       **Filing Protected Materials.** If a party wishes to use information or material  
22 designated by another party as Confidential to support or oppose a motion or otherwise file such  
23 information with the Court, the following procedures apply: Counsel shall make a reasonable  
24 effort to meet and confer before filing documents under seal. To the extent possible, counsel  
25  
26  
27  
28

1 shall submit, along with any document filed under seal, a stipulation and proposed order reciting  
2 the reasons for sealing the document. *See* LR 10-5; *Kamakana v. City & County of Honolulu*,  
3 447 F.3d 1172 (9th Cir. 2006).

4 **D. Disputes as to Confidentiality Designation:**

5 a. **Meet and Confer Requirement:** The parties agree to designate  
6 information as “Confidential” on a good faith basis and not for purposes of harassing the  
7 receiving party’s access to information concerning the lawsuit. If any party believes that a  
8 document, tangible item, or other information that has been designated as Confidential is not  
9 entitled to be treated as Confidential, the party will notify the designating party of its objection to  
10 the “Confidential” designation. The parties shall meet and confer in an attempt to reach an  
11 agreement regarding the Confidential status of the document, tangible item or information within  
12 seven (7) business days after the objecting party has advised the designating party of its objection.  
13

14 b. **Motion for Protective Order:** If the dispute is not resolved, then the  
15 objecting party may file a motion challenging whether any particular material designated as  
16 containing Confidential Information should be entitled confidential treatment. In addition, if the  
17 parties do not reach agreement in advance of filing Confidential Information as referenced in  
18 Section V.D above, then the party wishing to use the designated information or material must not  
19 file the Confidential Information without first allowing the disclosing party who wishes the  
20 designated information to be filed under seal seven (7) court days within which to file a motion  
21 allowing the Confidential Information to be filed under seal pursuant to LR 10-5. The opposing  
22 party may then file an opposition to such motion and the moving party may file a reply in  
23 accordance with the briefing schedule set forth by local rule.  
24

25 c. **Status Pending Resolution of Dispute:** Notwithstanding any challenge to  
26 the designation of material as containing Confidential Information, the material shall be treated as  
27  
28



1 Confidential and shall be subject to the provisions hereof unless and until one of the following  
2 occurs: (i) all parties that claim that the material contains Confidential Information withdraw  
3 such designation in writing; or (ii) the Court order is issued ruling that the material does not  
4 contain Confidential Information.

5 E. **Rights of Parties:** This Protective Order is without prejudice to the right of any  
6 party to apply to the Court for any further protective order relating to any Confidential  
7 Information or for an order permitting disclosure of any Confidential Information beyond the  
8 terms of this Protective Order.  
9

10 **VI. Miscellaneous**

11 A. The provisions of this Order shall not terminate at the resolution of this matter;  
12 provided, however, that within thirty (30) days after the final conclusion of this matter,  
13 documents stamped "Confidential" and all copies of such documents, other than exhibits of  
14 record, shall be returned to the party who produced the documents and designated them as  
15 "Confidential."  
16

17 B. Nothing in this Order shall prevent any party or other person from seeking  
18 modification of this Order or from objecting to discovery that it believes to be otherwise  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 improper. This Order, however, shall not be modified absent an order of the Court or the written  
2 agreement of all the Parties hereto.

3 DATED this 1<sup>st</sup> day of April, 2016.

4 JACKSON LEWIS P.C.

MALIK W. AHMAD

6 /s/ Lisa A. McClane

/s/Malik W. Ahmad

7 Elayna J. Youchah, Bar No. 5837

Malik W. Ahmad, Bar No. 10305

8 Lisa A. McClane, Bar No. 10139

8072 W. Sahara Ave., Suite A

3800 Howard Hughes Parkway, Ste. 600

Las Vegas, NV 89117

Las Vegas, NV 89169

9 Attorneys for Defendant

Attorneys for Plaintiff

11 IT IS SO ORDERED \_\_\_\_\_ April 6, 2016.

14   
MAGISTRATE/JUDGE

17 4824-2014-5190, v. 1



**Exhibit A**

Charles Marshall v. Silver State Disposal Service, Inc. dba Republic Services of Southern  
Nevada  
U.S. District Court; Case No. 2:15-cv-00953-APG-PAL

**CONFIDENTIALITY LOG OF:**

\_\_\_\_\_

<b>Date of Production/ Disclosure</b>	<b>Bates-Stamp Numbers/Source</b>	<b>Description of Documents or Information</b>	<b>Compelling Reason/Authority for Confidentiality Designation</b>

**Exhibit B****ACKNOWLEDGEMENT AND AGREEMENT TO BE BOUND**

I, \_\_\_\_\_, [print or type full name], of \_\_\_\_\_ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the Court on \_\_\_\_\_ [date] in the case of *Charles Marshall v. Silver State Disposal Service, Inc. dba Republic Services of Southern Nevada*, Case No. 2:15-cv-00953-APG/PAL. I agree to comply with and to be bound by the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order. I further agree to submit to the jurisdiction of the United States District Court, District of Nevada, for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint \_\_\_\_\_ [print or type full name] of \_\_\_\_\_ [print or type full address and telephone number] as my Nevada agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed Name: \_\_\_\_\_  
[printed name]

Signature: \_\_\_\_\_